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SMART AND BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO, ON M5G2K8
CANADA

EXAMINER
TURNER, ASHLEY D

ART UNIT	PAPER NUMBER
2454	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/537,621	NEIL ET AL.
Office Action Summary	Examiner	Art Unit	
	ASHLEY D. TURNER	2454	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 July 2008</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-25</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-25</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/3/2005</u>.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

Claims 17 -25 are rejected under 35 U.S.C.101.

Independent claim 17, which is drawn towards a machine-readable medium including machine-

executable code for execution at a computing device, comprising: machine-executable code for,

in response to either of a new application being made available at a server or an updated version

of an application being made available at a server, transmitting a message over a wireless

connection to a set of wireless communications devices indicating that said new or updated

application is available. For the claim to statutory the application must be implemented in a

machine readable medium (storage). The claim as read can be considered by one of ordinary skill

in the art as software per se, and therefore does not appear to be implemented in a machine

readable medium (storage).

Claim 18-25 are rejected for the same reasoning as claim 17 which is described above.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claims 1-25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Palaniappan (

US 6,711,557 B1) in view of Fascenda (US 6,466,937 B1).

Regarding claim 1

Referring to claim 1 Palaniappan discloses A method of facilitating wireless communication

device awareness of the availability of new or updated server-side applications, (Col.4 lines 26-

41 In one implementation, available updates are handled by the application to which they relate.

Thus, when the process determines that an update is available, the corresponding application is

notified on the client machine (step 260). The background process can do this by setting a flag in

the database that the application examines at a time selected by the application, such as when the

application next is executed, by sending a message to the application, or otherwise. The

application controls when to handle an available update and whether to ask the user before

downloading and installing the update. One particular kind of update is a library file or other

shared resource, which may be applicable to more than one application. The process determines

if any new shared resources may be wanted for any of the registered applications and, if so,

notifies each application.) Palaniappan did not disclose in response to either of a new application

being made available at a server or an updated version of an application being made available at

a server, transmitting a message over a wireless connection to a set of wireless communications

devices indicating that said new or updated application is available. The general concept of in

response to either of a new application being made available at a server or an updated version of

an application being made available at a server, transmitting a message over a wireless

connection to a set of wireless communications devices indicating that said new or updated

application is available is well known in the art as taught by Fasenda. Frescenda discloses in

response to either of a new application being made available at a server or an updated version of

an application being made available at a server, transmitting a message over a wireless

connection to a set of wireless communications devices indicating that said new or updated

application is available. (Col. 10 lines 62-67 and Col. 11 lines 1-21 Sever template database 330

includes the latest or most current versions of all of the available templates in the system of the

present invention. Server template database 330 also includes tables mapping individual client

device unique identifiers to the most current template versions authorized for client devices 108

associated with the unique identifiers. As new services, features and options are added to the

system of the present invention, new templates are stored in server template database 330 and/or

existing stored templates are updated, to reflect the additions. Therefore, at any given time, it is

possible a client device 108 includes an old version of a template, that is, an out-of-date template

that requires updating. When server 114 receives information request message 316 from client

device 108, server 114 determines whether the template (at client device 108) associated with the

request message is the most current template (for example, an updated template). If the template

is an old version, server 114 retrieves the most current template from server template database

330, and then transmits an appropriate template update, along with the requested information, to

client device 108 using response message 318. In this manner, server 114 distributes the most

current template versions to client devices 108 on a per access and an as needed basis. Thus,

server 114 efficiently distributes template updates to client devices 108 to render new service

features and options available to the users, and maintain configuration control over the clients.) It

would have been obvious to one of ordinary skill in the art at the time of the invention to modify

Palaniappan to include in response to either of a new application being made available at a server

or an updated version of an application being made available at a server, transmitting a message

over a wireless connection to a set of wireless communications devices indicating that said new

or updated application is available in order to provide the user with a mechanism for retrieving

the retained response information and to display such information as necessary.

Regarding claims 9 and 17

Claims 9 and 17 are similarly rejected using the same reasoning / citations provided above for

claim 1 since they recite the same limitations and are distinguished only by statutory category.

Regarding claim 2

Referring to claim 2 Palaniappan and Fascenda discloses all the limitations of claim 2 which is

described above. Palaniappan also discloses wherein said set of wireless communications devices

is a subset of an overall set of wireless communications devices in communication with said

server. (Col.2 lines 9-26 One or more servers remote from the client machine can communicate

with the client machine over the Internet, and each server maintains meta-information

concerning at least one of the multiple registered applications. The process executes periodically

and at that time downloads from one or more of the servers, according to what applications are

registered with the process, meta-information specifying what are the current versions of all

components each registered application requires. The process also compares the downloaded

meta-information with information obtained on the client machine to identify any registered

application for which an update should be performed and sends a notification that an update

should be performed to each identified application. The registered applications have

programming that can receive a notification from the process running on the client machine and

to cause an update to be performed in response to the notification.)

Regarding claims 10 and 18

Claims 10 and 18 are similarly rejected using the same reasoning / citations provided above for

claim 2 since they recite the same limitations and are distinguished only by statutory category.

Regarding claim 3

Referring to claim 3 Palaniappan and Fascenda discloses all the limitations of claim 3 which is described above. Palaniappan also discloses wherein said transmitting is conditional upon said new application or said updated version of an application being added to a group of applications to which access is provided as a whole.(Col.3 lines 13-26 Registered applications 50 include or invoke programming that implements registration and other features of the updating process that will be described later. In one implementation, this common, client-side programming is in the form of a shared library, such as a Microsoft Windows.TM. dynamic link library (DLL). Generally, this shared component will include code that allows it to update itself, either automatically or in response to a user action. The shared component can make itself available to a user of an application by adding a command to a menu, such as the help menu of the application. Selecting the command causes a user interface window to open through which the user can set preferences and otherwise control operation of the update monitoring feature.)

Regarding claims 11 and 19

Claims 11 and 19 are similarly rejected using the same reasoning / citations provided above for claim 3 since they recite the same limitations and are distinguished only by statutory category.

Regarding claim 4

Referring to claim 4 Palaniappan and Fascenda discloses all the limitations of claim 4 which is

described above. Palaniappan also discloses wherein said transmitting to said subset of wireless

communications devices is conditional upon a grant of access by said subset of wireless

communications devices to said group of applications. (Col.3 lines 54-67 and Col. 4 lines 1-2 As

shown in FIG. 2, the background process 70 (FIG. 1) on the client machine wakes up

periodically and performs a procedure 200 that contacts the server machine (or some substitute,

such as a mirror site) over the Internet (step 210). The event that wakes up the process can be the

passage of a time interval or some other occurrence. Generally, a time interval will be set by a

user, such as once a week after a particular time on a particular day of the week. The process

downloads meta-information (step 230) from all web sites identified by registered applications, if

any, or from a known or default site. In one implementation, the meta-information is downloaded

in the form of an XML file that contains information about all applications participating the

background updating process (whether or not they are registered on a particular client machine)

that are known to the source web site. Alternatively, the information can be in the form of one or

more XML files each specific to a particular vendor and containing information about the

participating applications of the vendor.)

Regarding claims 12 and 20

Claims 12 and 20 are similarly rejected using the same reasoning / citations provided above for

claim 4 since they recite the same limitations and are distinguished only by statutory category.

Regarding claim 5

Referring to claim 5 Palaniappan and Fascenda discloses all the limitations of claim 5 which is described above. Palaniappan also discloses wherein said transmitting is dependent upon receipt of an indication from a human operator in response to said new application being made available at said server or said updated version of an application being made available at said server. (Col.1 lines 14-30 When an update is available over the Internet, the user must generally access the relevant web site (i.e., site on the World Wide Web), choose to download an installer application and then run the installer. The user typically lets the installer determine whether or not any new material is applicable to the user's machine. When an update is available on traditional media such as a CD, the same process is required, except there is no downloading step. There are a number of problems with the current method for providing users with software updates. First, users must know when an update is available and how to obtain the update. Second, once users become aware that an update is available, they may be unsure of whether or not they need the proffered update and may go through the time consuming process of running the installer program without any need to do so. Third, providing updates on traditional media has its own problems: most importantly, the significant cost of manufacturing and distributing the updates to users.)

Regarding claims 13 and 21

Claim 13 and 21 are similarly rejected using the same reasoning / citations provided above for

claim 5 since they recite the same limitations and are distinguished only by statutory category.

Regarding claim 6

Referring to claim 6 Palaniappan and Fascenda discloses all the limitations of claim 6 which is

described above. Palaniappan also discloses wherein said transmitting is triggered automatically

in response to said new application being made available at said server or said updated version of

an application being made available at said server. (Col. 2 lines 57-67 and Col.1-13 As shown in

FIG. 1, one or more applications 50 (shown as 50a, 50b, . . .) that support client-based update

monitoring are installed on client machine 10 and register themselves with an update monitoring

process 70 that runs in the background on the client machine. The applications 50 (or their

installation processes) each register with the monitoring process, causing an entry to be added to

a client-machine-resident database 60 identifying the application, the language of the application

(such as English or French), and the location on the client machine of the one or more

components of the application. In one implementation, the resident database is simply a data file

that stores the information about the participating applications in Extensible Markup Language

(XML) format. However, the database can be stored and maintained using a data base

management system or any other convenient technology. The resident database can be stored on

any non-volatile memory local to the client machine, such as on a disk drive directly connected

to the client machine or on a disk drive that is local to the client machine, for example, a disk

drive in a server coupled to the client machine by a local area network. Similarly, the

applications 50 can be installed on a drive directly connected to the client machine or on a server

on a local area network.)

Regarding claims 14 and 22

Claim 14 and 22 are similarly rejected using the same reasoning / citations provided above for

claim 6 since they recite the same limitations and are distinguished only by statutory category.

Regarding claim 7

Referring to claim 7 Palaniappan and Fascenda discloses all the limitations of claim 7 which is

described above. Palaniappan also discloses wherein said message is an eXtenstible Markup

Language (XML) message. (Col. 2 lines 57-67 and Col.1-13 As shown in FIG. 1, one or more

applications 50 (shown as 50a, 50b, . . .) that support client-based update monitoring are

installed on client machine 10 and register themselves with an update monitoring process 70 that

runs in the background on the client machine. The applications 50 (or their installation

processes) each register with the monitoring process, causing an entry to be added to a client-

machine-resident database 60 identifying the application, the language of the application (such as

English or French), and the location on the client machine of the one or more components of the

application. In one implementation, the resident database is simply a data file that stores the

information about the participating applications in Extensible Markup Language (XML) format.

However, the database can be stored and maintained using a data base management system or

any other convenient technology. The resident database can be stored on any non-volatile

memory local to the client machine, such as on a disk drive directly connected to the client

machine or on a disk drive that is local to the client machine, for example, a disk drive in a server

coupled to the client machine by a local area network. Similarly, the applications 50 can be

installed on a drive directly connected to the client machine or on a server on a local area

network.)

Regarding claim 15 and 23

Claim 15 and 23 are similarly rejected using the same reasoning / citations provided above for

claim 7 since they recite the same limitations and are distinguished only by statutory category.

Regarding claim 8

Referring to claim 8 Palaniappan and Fascenda discloses all the limitations of claim 8 which is

described above. Palaniappan also discloses wherein said message includes a list of applications

presently available to said set of wireless communications devices. (Col.1 lines 66-67 and Col.2

lines 1-8 In general, in one aspect, the invention provides methods and apparatus, including

computer program products, for providing updates for computer program components on a client

machine that can be connected to web sites on the Internet. In this aspect, an update monitoring

process running on a client machine maintains a local database of application-related

information. The process can receive registration information from, and thereby register,

multiple computer program applications installed on the client machine.)

Regarding claims 16 and 24

Claim 16 and 24 are similarly rejected using the same reasoning / citations provided above for

claim 8 since they recite the same limitations and are distinguished only by statutory category.

Regarding claim 25

Referring to claim 25 Palaniappan and Fascenda discloses all the limitations of claim 25 which is

described above. Palaniappan also discloses wherein said set of wireless communication devices

is associated with a group of applications and said transmitting is conditional upon said new

application or said updated version of an application being added to said group of applications.

(Col.3 lines 13-26 Registered applications 50 include or invoke programming that implements

registration and other features of the updating process that will be described later. In one

implementation, this common, client-side programming is in the form of a shared library, such as

a Microsoft Windows.TM. dynamic link library (DLL). Generally, this shared component will

include code that allows it to update itself, either automatically or in response to a user action.

The shared component can make itself available to a user of an application by adding a command

to a menu, such as the help menu of the application. Selecting the command causes a user

interface window to open through which the user can set preferences and otherwise control

operation of the update monitoring feature.)

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ashley d. Turner whose telephone number is 571-270-1603. The

examiner can normally be reached on Monday thru Friday 7:30a.m. - 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nathan Flynn can be reached at 571-272-1915. The fax phone number for the

organization where this application or proceeding is assigned is 571-270-2603.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patent Examiner: Supervisory Patent Examiner

_____   _____

Ashley Turner   Nathan Flynn

      Date: _____   Date: _____

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2454